

REMARKS

In the Final Office Action, the Examiner rejected claim 1 under 35 U.S.C. § 112, first paragraph as failing to comply with the written description requirement; rejected claims 1, 3, 6, 8, 9, 12, and 14 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,167,383 to Henson ("*Henson*"), U.S. Patent No. 7,113,919 to Norris et al. ("*Norris*"), and U.S. Patent No. 6,625,607 to Gear ("*Gear*"); rejected claim 4 under 35 U.S.C. § 103(a) as being unpatentable over *Henson*, *Norris*, and *Gear* in view of U.S. Patent No. 5,974,395 to Bellini ("*Bellini*"); and rejected claim 11 under 35 U.S.C. § 103(a) as being unpatentable over *Henson*, *Norris*, and *Gear* in view of U.S. Patent No. 6,188,989 to Kennedy ("*Kennedy*").

By this amendment, Applicant proposes to amend claims 1, 3, 9, and 14. Upon entry of this amendment, claims 1 and 3-55 will remain pending with claims 1, 3, 4, 6, 8, 9, 11, 12, and 14 presented for examination, and claims 5, 7, 10, 13, and 15-55 withdrawn from consideration.

Applicant thanks the Examiner for initiating the January 29, 2009 telephonic interview with Applicant's representative, during which the claims and cited references were discussed. Applicant does not necessarily subscribe to any characterizations of the claims made by the Examiner on pages 2 and 3 of the Final Office Action, in reference to the telephonic interview. The substance of the interview is included in the remarks below.

Applicant respectfully traverses the rejection of claim 1 under 35 U.S.C. § 112, first paragraph as failing to comply with the written description requirement. To address the Examiner's concerns, Applicant amends claim 1 to recite "wherein the commodity

also includes individual commodities with functionality that is not included in the related commodity.” Accordingly, claim 1 complies with the written description requirement of 35 U.S.C. § 112, first paragraph.

Applicant respectfully traverses the rejection of claims 1, 3, 6, 8, 9, 12, and 14 under 35 U.S.C. § 103(a) as being unpatentable over *Henson*, *Norris*, and *Gear*.

Independent claim 1 recites a commodity selling apparatus for accepting an order of a commodity in response to a customer’s request to purchase the commodity over a network, and for directly shipping the ordered commodity to the customer, including, among other things:

attention instigation transmitting means for transmitting attention instigation information when one of the related commodities from the proposed order includes a same functionality as at least one of the individual commodities that form the commodity, wherein the commodity also includes individual commodities with functionality that is not included in the related commodity.

Henson, *Norris*, and *Gear* do not teach or suggest the claimed “attention instigation transmitting means.”

Henson discloses analyzing contents of a user’s shopping cart, and making appropriate merchandising recommendations. *Henson*, col. 9, lines 56-60. However, *Henson* does not teach or suggest the claimed “attention instigation transmitting means.”

Norris discloses component specifications that describe a basic use of the component. However, *Norris* does not teach or suggest the claimed “attention instigation transmitting means.”

Gear discloses periodically comparing a part being designed with a library of existing parts. *Gear*, col. 4, lines 38-40. Moreover, “the designer may be alerted . . . when the subject part design approaches that of an existing design.” *Gear*, col. 4, line 40-42 (emphasis added). Next, “the designer may elect to discontinue the part design in favor of using an existing part from the database.” *Gear*, col. 4, lines 43-46.

Gear’s alerting does not constitute or suggest the claimed “attention instigation transmitting means,” at least because *Gear* does not teach or suggest “wherein the commodity also includes individual commodities with functionality that is not included in the related commodity,” as recited in claim 1. *Gear*’s existing part from the database (alleged “commodity”) does not include “individual commodities with functionality that is not included in” *Gear*’s part being designed (alleged “related commodity”).

For at least these reasons *Henson*, *Norris*, and *Gear* do not teach or suggest the subject matter of claim 1. Claims 3, 6, 8, 9, 12, and 14 depend from claim 1.

Applicant respectfully traverses the rejection of claim 4 under 35 U.S.C. § 103(a) as being unpatentable over *Henson*, *Norris*, *Gear*, and *Bellini*. Claim 4 depends from claim 1 and includes all recitations therein. As discussed *Henson*, *Norris*, and *Gear* do not teach or suggest the subject matter of claim 1.

Bellini fails to cure the deficiencies of *Henson*, *Norris*, and *Gear* by also failing to teach or suggest the claimed “attention instigation transmitting means.” Accordingly, *Henson*, *Norris*, *Gear*, and *Bellini* fail to teach or suggest the subject matter of claim 4.

Applicant respectfully traverses the rejection of claim 11 under 35 U.S.C. § 103(a) as being unpatentable over *Henson*, *Norris*, *Gear*, and *Kennedy*. Claim 11

depends from claim 1 and includes all recitations therein. As discussed *Henson*, *Norris*, and *Gear* do not teach or suggest the subject matter of claim 1.

Kennedy fails to cure the deficiencies of *Henson*, *Norris*, and *Gear* by also failing to teach or suggest the claimed "attention instigation transmitting means." Accordingly, *Henson*, *Norris*, *Gear*, and *Kennedy* fail to teach or suggest the subject matter of claim 11.

Applicant respectfully request that the Examiner enter this Amendment under 37 C.F.R. § 1.116, placing the claims in condition for allowance. Applicant submits that the proposed amendments do not raise new issues or necessitate the undertaking of any additional search of the art by the Examiner, since all of the elements and their relationships claimed were either earlier claimed or inherent in the claims as examined. Therefore, this Amendment should allow for immediate action by the Examiner.

In view of the foregoing, Applicant submits that the amended claims are neither anticipated nor rendered obvious in view of the cited references. Applicant therefore requests the entry of this Amendment, the Examiner's reconsideration of the application, and the timely allowance of the pending claims and of withdrawn claims that depend from any of the allowed claims.

Please grant any extensions of time required to enter this response and charge any additional required fees to Deposit Account 06-0916.

Respectfully submitted,

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